IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8617 OF 2003

Universal Motors ... Petitioners

v/s

M/s Hemkiran Diesels ... Respondents

Mr S.V. Sadavarte for Petitioners.

Mr Amit V. Borkar for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 15TH JUNE 2005.

P.C. :-

1. By this petition, the petitioners challenge the order passed by the Executing Court dismissing the application filed by the petitioners. The application has been rejected by the Executing Court holding that it is not a bonafide application. The petitioners filed application under Order 21 Rule 8 of C.P.C. Perusal of provisions of Order 21 Rule 8 of C.P.C. shows that under that provision, an obligation is cast on the Court to consider objection that may be raised in relation to attachment of the property in execution. Obviously, an application under Order 21 Rule 8 of C.P.C. could be filed after the Court makes an order for attachment or if the provision is liberally construed, an application could be filed when the Court is proposing to attach any property. Obviously therefore, an application under Order 21 Rule 8 of C.P.C. must state that a particular property has been attached in execution or that the decree-holder has moved the Court for attachment of a particular property and the Court because of that application proposes to proceed further and attach the property. Perusal of the application that was filed by the petitioners shows that nowhere in the application a statement is made either that the decree-holder has moved the Executing Court for attachment of the property

of the petitioners or that the Court has made an order for attachment of the property of the petitioners. In the absence of such statement therefore, the Trial Court was perfectly justified in rejecting the application. What is pertinent to note is that the petitioners not being satisfied with making a vague application, made an application for permission to lead evidence. Both these applications were rejected. The reasons are obvious, the applications were made without application of mind and with malafide intention of protracting the execution proceedings. Therefore, I do not find any reason to interfere with the order impugned. But as I find that both the applications which have been rejected by the order impugned in the petition were totally misconceived and they resulted in wasting Court's time and that it was obvious that no fault can be found with the order of the Trial Court rejecting those applications, the present petition was filed in this Court. The petitioners persuaded this Court not only to issue notice to other side but also to grant interim order, as a result of which the execution proceedings were stayed. Thus, in my opinion, the petitioners have abused the process of the Court and wasted Court's time. Large amount is spent from public funds for maintaining the Courts. Litigants therefore cannot be permitted to waste Courts' time. A litigant who launches a litigation in the Court which results in wasting of

Court's time therefore has to be dealt with seriously and exemplary costs need to be imposed so that the tendency of litigants to launch unnecessary litigation is discouraged. Petition is rejected. The petitioners are directed to pay as and by way of cost of this petition Rs.10,000/- to the respondents.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary of this Court as true copy.

. Certified copy expedited.